

RESPONSE TO REQUIREMENT FOR RESTRICTION

The Examiner required election of one of the following groups of claims:

Group I. Claims 4-6 and 14, drawn to proteins;

Group II. Claims 2, 3 and 8-13, drawn to nucleic acid molecules; and

Group III. Claim 7, drawn to an antibody.

Additionally, the Examiner requires applicants elect a single sequence identifier out of the 42 sequences recited.

In response to the restriction requirement, applicants elect to proceed with the claims of Group II, claims 2, 3 and 8-13 and SEQ ID NO:3, with traverse. All claims in Group II read on this sequence. Applicants expressly reserve their right under 35 USC §121 to file one or more divisional applications directed to the nonelected subject matter during the pendency of this application.

However, applicants believe that the present restriction requirement is improper. In particular, as seen in the examples, the sequences described pertain to sequences derived from ORFs 40, 38, 44, 49, 50, 39, 52, 56, 63, 69, 77, 112, 114, 116, 118, 41, 51, 82, 124 as follows:

ORF 40: SEQ ID NOS:1-6 (SEQ ID NOS 1, 3 and 5 are nucleotide sequences; SEQ ID NOS 2, 4 and 6 are protein);

ORF 38: SEQ ID NOS:7-12 (SEQ ID NOS 7, 9 and 11 are nucleotide sequences; SEQ ID NOS 8, 10 and 12 are protein);

ORF 44: SEQ ID NOS:13-16 (SEQ ID NOS 13 and 15 are nucleotide sequences; SEQ ID NOS 15 and 16 are protein);

ORF 49: SEQ ID NOS:17-22 (SEQ ID NOS 17, 19 and 21 are nucleotide sequences; SEQ ID NOS 18, 20 and 22 are protein);

ORF 50: SEQ ID NOS:23-24 (SEQ ID NO 23 is a nucleotide sequence; SEQ ID NO 24 is protein);

ORF 39: SEQ ID NOS:25-30 (SEQ ID NOS 25, 27 and 29 are nucleotide sequences; SEQ ID NOS 26, 28 and 30 are protein);

ORF 52: SEQ ID NOS:31-34 (SEQ ID NOS 31 and 33 are nucleotide sequences; SEQ ID NOS 32 and 34 are protein);

ORF 56: SEQ ID NOS:35-38 (SEQ ID NOS 35 and 37 are nucleotide sequences; SEQ ID NOS 36 and 38 are protein);

ORF 63: SEQ ID NOS:39-40 (SEQ ID NO 39 is a nucleotide sequence; SEQ ID NO 40 is protein);

ORF 69: SEQ ID NOS:41-44 (SEQ ID NOS 41 and 43 are nucleotide sequences; SEQ ID NOS 42 and 44 are protein);

ORF 77: SEQ ID NOS:45-50 (SEQ ID NOS 45, 47 and 49 are nucleotide sequences; SEQ ID NOS 46, 48 and 50 are protein);

ORF 112: SEQ ID NOS:51-56 (SEQ ID NOS 51, 53 and 55 are nucleotide sequences; SEQ ID NOS 52, 54 and 56 are protein);

ORF 114: SEQ ID NOS:57-62 (SEQ ID NOS 57, 59 and 61 are nucleotide sequences; SEQ ID NOS 58, 60 and 62 are protein);

ORF 116: SEQ ID NOS:63-64 (SEQ ID NO 63 is a nucleotide sequence; SEQ ID NO 64 is protein);

ORF 118: SEQ ID NOS:65-66 (SEQ ID NO 65 is a nucleotide sequence; SEQ ID NO 66 is protein);

ORF 41: SEQ ID NOS:67-72 (SEQ ID NOS 67, 69 and 71 are nucleotide sequences; SEQ ID NOS 68, 70 and 72 are protein);

ORF 51: SEQ ID NOS:73-78 (SEQ ID NOS 73, 75 and 77 are nucleotide sequences; SEQ ID NOS 74, 76 and 78 are protein);

ORF 82: SEQ ID NOS:79-84 (SEQ ID NOS 79, 81 and 83 are nucleotide sequences; SEQ ID NOS 80, 82 and 84 are protein); and

ORF 124: SEQ ID NOS:85-90 (SEQ ID NOS 85, 87 and 89 are nucleotide sequences; SEQ ID NOS 86, 88 and 90 are protein).

Thus, applicants propose the Examiner maintain the three stated groups, but search all the sequence identifier numbers related to the particular ORF selected. Thus, for each of Groups I and II, all sequence identifiers relating to one of ORFs 40, 38, 44, 49, 50, 39, 52, 56, 63, 69, 77, 112, 114, 116, 118, 41, 51, 82, 124 would be selected. For Group III, antibodies directed against proteins from

one of ORFs 40, 38, 44, 49, 50, 39, 52, 56, 63, 69, 77, 112, 114, 116, 118, 41, 51, 82, 124 would be selected.

MPEP 803 states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (Emphasis added).

Applicants submit that an examination of the claims as proposed by applicants would not impose a serious burden on the Examiner. Indeed, applicants believe failure to examine the claims as suggested would pose a far greater burden on the Patent and Trademark Office by requiring a duplication of effort and resources. Accordingly, reconsideration of the present restriction requirement is respectfully requested.

Should the Office reconsider and regroup the claims as set forth above, applicants elect to prosecute the claims of Group II, claims 2, 3 and 8-13, as they relate to nucleic acids from ORF 40, SEQ ID NOS 1, 3 and 5 (encoding proteins 2, 4 and 6, respectively). Reconsideration of the Restriction Requirement is therefore respectfully requested.